



Image

12-16-03

1639

## PATENT

### IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

#### In re Application of:

Logtenberg *et al.*

**Serial No.:** 09/940,386

**Filed:** August 27, 2001

**For:** DIFFERENTIALLY EXPRESSED  
EPITOPES AND USES THEREOF

**Confirmation No.:** 4365

**Examiner:** T. Wessendorf

**Group Art Unit:** 1639

**Attorney Docket No.:** 2578-4514.1US

#### NOTICE OF EXPRESS MAILING

Express Mail Mailing Label Number: EV325784055US

Date of Deposit with USPS: December 15, 2003

Person making Deposit: Christopher Haughton

### RESPONSE TO RESTRICTION REQUIREMENT AND SPECIES ELECTION

Mail Stop Non-Fee Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This communication is in response to the Communication November 18, 2003, having an initial period of response expiring on December 18, 2003.

Claims 1-45 are currently pending in the application and subject to a Restriction Requirement. Applicants provisionally elect to prosecute the claims of Group VI, claims 18-28. Applicants, however, request reconsideration of the restriction requirement, especially with regard to Groups VI and VII. The applicants respectfully submit that combining Groups VI and VII would not present an undue burden on the Office and would, in fact, reduce the case load for the Office.

Appl. No. 09/940,386  
Amdt. dated December 15, 2003  
Reply to Office Action of November 18, 2003

The Office also requests that the applicants elect a single disclosed species from each of the subgroups A-C ("A" being disease cells; "B" being binding molecules; and "C" being Tags) (*see* page 4 of Paper 11). As discussed with the Examiner during a telephone conference on December 12, 2003, the applicants provisionally elect the species comprising an antibody or part or derivative thereof. The applicants also note that one or more claims of Group VI are generic, as acknowledged by the Office, and specifically request that the non-elected subject matter be rejoined upon the allowance of a generic claim (37 C.F.R. § 1.141). The applicants respectfully request reconsideration of the species restriction, in as much as the claims define a reasonable number of species.

If the foregoing should raise any questions, the Office is kindly requested to contact applicants' undersigned attorney.

Respectfully submitted,



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Date: December 15, 2003